

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

DARRICK LEE SIDES,

Plaintiff,

v.

**9:15-CV-1203
(MAD/CFH)**

DOCTOR PAOLANO, Doctor; Cocksackie Medical Unit, individually and officially, **DR. JON MILLER, Doctor;** Cocksackie Medical Unit, individually and officially, **P. SNYDER,** Nurse; Cocksackie Medical Unit, individually and officially, and **P. SCHMIDT,** Nurse; Cocksackie Medical Unit, individually and officially,

Defendants.

APPEARANCES:

OF COUNSEL:

DARRICK LEE SIDES

96-A-5286

Plaintiff, Pro se

Elmira Correctional Facility

P.O. Box 500

Elmira, NY 14902

HON. LETITIA JAMES

**OFFICE OF THE NEW YORK
STATE ATTORNEY GENERAL**

The Capitol

Albany, New York 12224

Attorneys for Defendants

CHRISTOPHER J. HUMMEL, AAG

Mae A. D'Agostino, U.S. District Judge:

ORDER

The Court of Appeals for the Second Circuit issued a Mandate, entered on this Court's Docket on November 14, 2019, vacating and remanding this Court's prior judgment, and

instructing this Court to "to determine in the first instance whether equitable tolling should apply based on the circumstances of this case, including the notary's temporary unavailability." Dkt. No. 56 ("Second Circuit Mandate"). The Circuit further noted, "Appellees raised other defenses with the District Court. These included qualified immunity and Sides's failure in conflict with the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a), to exhaust administrative remedies. We invite the District Court to consider these and other defenses on remand, as it deems suitable." *Id.*

The parties are hereby directed that they have **sixty (60) days** from the filing date of this Order within which to file supplemental briefing concerning the issues of tolling, qualified immunity, exhaustion, and "other defenses," as addressed by the Second Circuit's Mandate.

Furthermore, this matter is referred to the Honorable Christian F. Hummel, the United States Magistrate Judge assigned to this case, for a Report-Recommendation addressing the issues in this case as instructed by the Second Circuit's Mandate.

Based on the foregoing, it is hereby

ORDERED that the parties shall have **SIXTY (60) DAYS** from the filing date of this Order within which to file **SUPPLEMENTAL BRIEFING** concerning the issues of tolling, qualified immunity, exhaustion, and "other defenses," as addressed by the Second Circuit's Mandate; and it is further

ORDERED that this matter is **REFERRED** to the Honorable Christian F. Hummel, United States Magistrate Judge, for a **REPORT-RECOMMENDATION** addressing the issues in this case as instructed by the Second Circuit's Mandate; and it is further

ORDERED that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

Dated: December 13, 2019
Albany, New York


Mae A. D'Agostino
U.S. District Judge